

Renewable Energy Question 21: *How has Michigan, and how have other jurisdictions, chosen to incentivize or penalize exceeding or falling short of renewable targets?*

## Executive Summary

1. None of the jurisdictions provide explicit incentives for exceeding renewable targets
2. Many states have established noncompliance penalties, though their severity and enforcement mechanisms vary broadly

### 1. None of the jurisdictions provide explicit incentives for exceeding renewable targets

### 2. Many states have established noncompliance penalties, though their severity and enforcement mechanisms vary broadly

Among the 29 states and Washington D.C. that have established state RPS, a majority of the jurisdictions, including Michigan, have adopted various types of noncompliance penalties.

Common types of noncompliance penalties include:

- Alternative compliance payments (ACP)
- Penalty based on per unit of deficiency
- Regulatory enforcement

A summary of the types of noncompliance penalties by states is presented in Table 1. The details on the non-compliance penalty in each state can be found in Appendix I.

**Table 1: Types of noncompliance penalties**

Alternative compliance payment (ACP)	Penalty based on per unit of deficiency	Regulatory enforcement	Not applicable
Connecticut	California	Arizona	New York
Delaware	Colorado	Hawaii	Illinois
Maine	Kansas	Iowa	
Maryland	Missouri	Michigan	
Massachusetts	Montana	Minnesota	
New Hampshire	Washington	Nevada	
New Jersey		New Mexico	
Ohio		North Carolina	
Oregon		Wisconsin	
Pennsylvania			
Rhode Island			
Texas			
DC			

Source: [dsireusa.org](https://dsireusa.org/); Union of Concerned Scientists, Renewable Electricity Standards Toolkit

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Alternative compliance payments

In states with alternative compliance payments (ACPs), electricity suppliers may choose to make a financial payment for the shortfalls in renewable energy credits (RECs) to comply with state RPS. As shown in Table 2, in some states, electricity suppliers can recover the costs of ACPs from ratepayers automatically. In other states, the costs of ACPs cannot be recovered from rate payers.

**Table 2: States using alternative compliance payments**

ACP with automatic cost recovery	ACP with possible cost recovery	ACP with no cost recovery
Massachusetts	Delaware	Connecticut
Maine	Maryland	Ohio
New Hampshire	Oregon	Pennsylvania
New Jersey	Washington DC	Texas
Rhode Island		

*Source: dsireusa.org; B. Pierpont, Limiting the cost of renewables: lessons for California, June 2012*

Penalty based on per unit of deficiency

Penalty based on per unit of deficiency is very similar to ACP payments: electricity suppliers have to make a financial payment for the shortfalls in renewable energy credits (RECs) to comply with state RPS. Electricity suppliers cannot recover the costs of the penalty from ratepayers. Penalties based on per unit of deficiency function like ACP with no cost recovery.

In states that specify the exact dollar amount of the penalties (either through ACP or penalty per unit of deficiency), electric suppliers are generally charged a penalty of \$45 - \$65 / MWh for shortfalls in the main renewable category and \$400 - \$650 / MWh for shortfalls in solar carve-out (where applicable).

Regulatory enforcement

In states using regulatory enforcement for RPS noncompliance, some have explicitly adopted administrative penalties (e.g., Arizona, Michigan, Minnesota, Nevada, Wisconsin), and others have no explicit penalties except through normal regulatory oversight and enforcement by state regulatory entities (e.g., Hawaii, Iowa, New Mexico, North Carolina).

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Not applicable states

In Illinois and New York, a penalty provision is not required under the RPS standard, because the procurement of renewable energy is the responsibility of a state agency.

Michigan has enacted the following penalty provisions for different types of electric suppliers:

- Rate-regulated providers: the electric provider must purchase sufficient renewable energy credits (RECs) to meet the standard and the costs of such RECs are not recoverable from ratepayers if the Michigan Public Service Commission (MPSC) finds the provider does not make a good faith effort to meet the standard
- Municipalities and member-regulated cooperatives: the attorney general (or cooperative member) may commence a civil action for injunctive relief
- Alternative electric suppliers: the MPSC can take action directly, including license revocation, issuance of an order to cease and desist, and a fine between \$5,000 and \$50,000 for each violation

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**Appendix I: State Noncompliance Penalties**

State	Noncompliance Penalty Type	Noncompliance Penalty Details
Arizona	Regulatory enforcement	State regulators may impose but amount(s) not specified
California	Penalty based on per unit of deficiency	\$50/MWh with a maximum penalty cap of \$25 million per utility per year
Colorado	Penalty based on per unit of deficiency	The PUC determines how much compliance would have cost and requires to the utility to pay that amount, but the utility may not recover the cost from customers
Connecticut	ACP	\$55/MWh
Delaware	ACP	ACP: - \$25/MWh (first year of noncompliance) - \$50/MWh (second year of noncompliance) - \$80/MWh (third year of noncompliance and subsequent years) Solar ACP: - \$400/MWh (first year of noncompliance) - \$450/MWh (second year of noncompliance) - \$500/MWh (third year of noncompliance and subsequent years)
Hawaii	Regulatory enforcement	The Public Utility Commission (PUC) can assess penalties if an electric utility company fails to meet the RPS
Illinois	None	None (RPS is state-administered)
Iowa	Regulatory enforcement	None
Kansas	Penalty based on per unit of deficiency	Equal to twice the market value of Renewable Energy Credits (RECs) unless the utility demonstrates good faith effort to comply with the requirements
Maine	ACP	ACP with automatic cost recovery: \$62.1/MWh in 2011 for Class I renewables, adjusted annually for inflation - Non-solar Tier 1: \$40/MWh (increased from to \$20/MWh by H.B. 375 of 2008, effective beginning in 2011); - Tier 2: \$15/MWh - Solar Tier 1: \$450/MWh in 2008, \$400/MWh in 2009 through 2014, \$350/MWh in 2015 and 2016, \$200/MWh in 2017 and 2018 and continuing to decline by \$50 bi-annually until it reaches \$50/MWh in 2023 and beyond - Tier 1 for Industrial Process Load: \$8/MWh in 2006-2008, declining incrementally to \$2/kWh in 2017 and later
Maryland	ACP	ACP: - Class I: \$64.02/MWh in 2012 - Class II: \$26.28/MWh in 2012 - Class II Waste Energy: \$10.51/MWh in 2012 - Solar Carve-out: \$550/MWh; the Solar ACP amended in Dec 2011 and now follows a 10-year schedule (final rule pending)
Massachusetts	ACP	
Michigan	Regulatory enforcement	State regulators may impose according to PA 295
Minnesota	Regulatory enforcement	If a utility fails to comply, the PUC may impose a financial penalty on the utility in an amount not to exceed the estimated cost of achieving compliance
Missouri	Penalty based on per unit of deficiency	A penalty of at least twice the average market value of renewable energy credits, unless the failure was reasonable control of the utility

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State	Noncompliance Penalty Type	Noncompliance Penalty Details
Montana	Penalty based on per unit of deficiency	\$10/MWh but penalty can be waived if the utility has taken reasonable steps to comply
Nevada	Regulatory enforcement	The PUC will assess a fine of an amount greater than the price of generating renewable electricity or taking energy efficiency measures
New Hampshire	ACP	<ul style="list-style-type: none"> <li>- Class I: \$55.00/MWh in 2013</li> <li>- Class I Thermal: \$25.00/MWh in 2013</li> <li>- Class II: \$55.00/MWh in 2013</li> <li>- Class III: \$31.50/MWh in 2013</li> <li>- Class IV: \$26.50/MWh in 2013</li> </ul>
New Jersey	ACP	ACP: \$50/MWh Solar ACP: \$641/MWh in 2013 declining to \$239/MWh in 2028
New Mexico	Regulatory enforcement	State regulators may impose but amount(s) not specified
New York	None	None (RPS is state-administered)
North Carolina	Regulatory enforcement	State regulators may impose but amount(s) not specified
Ohio	ACP	ACP: \$45/MWh, adjusted with Consumer Price Index (CPI) every year. It can never be less than \$45/MWh; Solar ACP: \$400/MWh in 2010, declining by \$50 every 2 years
Oregon	ACP	ACP of \$50/MWh; the PUC can impose penalties against Investor Owned Utility (IOU) or suppliers in addition to ACP
Pennsylvania	ACP	ACP: \$45/MWh Solar ACP: 200% times the sum of (1) market value of Solar Alternative Energy Credits (AECs) and (2) the levelized value of upfront rebates received by sellers of solar AECs;
Rhode Island	ACP	\$64.02/MWh in 2012
Texas	ACP	\$50/MWh
Washington	Penalty based on per unit of deficiency	\$50/MWh adjusted annually for inflation
Wisconsin	Regulatory enforcement	Noncompliance penalty of up to \$500,000
D.C.	ACP	ACP: \$50/MWh for Tier 1; 10/MWh for Tier 2 Solar ACP: \$500/MWh for solar 2011-2016; \$350 in 2017, \$300 in 2018 and \$200 in 2019, \$150 in 2021 and 2022, and \$50 in 2023 and thereafter

Source: Institute for Energy Research "The Status of Renewable Electricity Mandates in the States", DSIRE Website